

## **REMARKS**

### **Summary**

Claims 21-38 stand in this application. Claims 1-20 were previously canceled without prejudice. Claims 21, 22, 26, 30, 34 and 35 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 21, 22, 26, 30, 34 and 35 in order to facilitate prosecution on the merits. Support for the above amendments can be found in the specification at least at paragraph [0026].

### **Objections to the Specification**

The specification stands objected to for containing an embedded hyperlink and/or other form of browser-executable code. Applicant respectfully submits that the specification has been amended to delete the embedded hyperlink. Consequently, withdrawal of the objections to the specification is respectfully requested.

### **Objections to the Claims**

Claims 26-33 stand objected to due to informalities. Claims 26 and 30 have been amended to correct the informalities. Therefore, Applicant respectfully requests withdrawal of the claim objections with respect to these independent claims and any claims that depend directly or indirectly therefrom.

**Claim Rejections - 35 U.S.C. § 103**

Claims 21-23, 25-28, 30-32, 34-36 and 38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 6,188,898 to Phillips (“Phillips”) in view of United States Patent Publication No. 2003/0235167 to Kuffner (“Kuffner”). Claims 24, 29, 33 and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Phillips and Kuffner in view of United States Patent No. 6,167,032 to Allison et al. (“Allison”). Applicants respectfully traverse the rejections, and requests reconsideration and withdrawal of the obviousness rejections.

Applicant respectfully submits that the cited references, taken alone or in combination, fail to teach or suggest every element recited in claims 21-38. Therefore claims 21-38 define over the cited references whether taken alone or in combination. For example, claim 21 has been amended to recite the following language, in relevant part:

reprogramming an idle one of the two or more physical layer blocks or one of the two or more physical layer blocks that is used less frequently than another of the two or more physical layer blocks to operate according to the desired communication protocol or standard.

As correctly noted in the Office Action, the above-recited language is not disclosed by Phillips. According to the Office Action, the missing language is disclosed by the Kuffner at paragraphs [0016] and [0028]. Applicant respectfully disagrees.

Applicant respectfully submits that Kuffner fails to disclose the missing language of the claimed subject matter. For example, Kuffner, arguably, teaches a multiple mode RF communication device. More particularly, the cited portions of Kuffner teach a service manager to deploy a preconfigured one of a first or second communication

resource according to a set of deployment rules. Applicant submits that this is different than the above recited language of amended independent claim 21.

While the deployment rules of Kuffner may be based on communication quality parameters, priorities, availability of the communication resources or other parameters, Applicant submits that merely switching between preconfigured communication resources (e.g CDMA2000 or GPS for example) is clearly different than reprogramming a physical layer block to operate according to a desired communication protocol or standard based on the idle status of the block or the frequency of use of the block as required by claim 21. Therefore, Kuffner fails to disclose, teach or suggest the missing language. Furthermore, Applicant submits that Phillips and Allison also fail to teach at least the above recited language. Consequently, the cited references, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claim 21.

For at least these reasons, Applicant submits that claim 21 is patentable over the cited references, whether taken alone or in combination. In addition, claims 26, 30 and 34 have been amended to recite features similar to those recited in claim 21. Therefore, Applicant respectfully submits that claims 26, 30 and 34 are not obvious and are patentable over the cited references for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claims 21, 26, 30 and 34.

Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 22-25, 27-29, 31-33 and 35-38 that depend from claims 21, 26, 30

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and 34 respectively, and therefore contain additional features that further distinguish these claims from the cited references.

**Conclusion**

It is believed that claims 21-38 are in condition for allowance. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

Applicants do not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the limitations of the independent claims and dependent claims discussed above. Accordingly, Applicants hereby reserve the right to make additional arguments as may be necessary to further distinguish the claims from the cited references, taken alone or in combination, based on additional features contained in the independent or dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

The Examiner is invited to contact the undersigned to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to deposit account 50-4238.

Respectfully submitted,  
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/John F. Kacvinsky/

John F. Kacvinsky, Reg. No. 40,040  
Under 37 CFR 1.34(a)

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